

### **REMARKS**

Applicant respectfully requests reconsideration of this application in view of the foregoing amendment and following remarks.

#### **Status of the Claims**

Claims 1-10 and 30-32 are currently pending. Claims 1, 9, 10, 30 and 31 are independent.

Claims 1-4, 7-10 and 30-32 have been rejected. Claims 5 and 6 have been indicated as allowable if rewritten to overcome the rejection(s) under 35 U.S.C. §112, second paragraph, to include all of the limitations of the base claim and any intervening claims.

#### **Rejection under 35 U.S.C. §102**

Claims 1, 2, 3, 7-10 and 30-31 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,689,442 to Swanson et al. ("Swanson").

In response to the Amendment filed September 29, 2003, the Examiner indicates that "... the automatic selecting of the image signal storage space from the memory is only perform when the storage space occupied by the information is needed for the storage of subsequently acquired information as discussed in col. 6, lines 24+." The Examiner seems to believe that there exists a conditional relationship between the mode of system and the amount space remaining in the data storage device.

Claims 1, 9, 10, 30 and 31 have been amended for further clarification. In particular, the amended claims specifically recite that the photographing mode of the image pickup means specifies the size of the image signal as shown in the attached claim listing. Support for the

amendment may be found, for example, in the first and second full paragraphs of page 18 of the original specification.

With this feature of the invention, the image processing device compares the remaining memory capacity with a specified size of an image signal to be taken and effects transmission of a selected image signal to the external device based on the comparison result.

Applicant believes that this feature of the invention is neither taught nor suggested by any of the cited references (i.e., Swanson, U.S. Patent No. 5,829,044 to Sono and U.S. Patent No. 6,094,219 to Roberts et al.), either taken alone or in combination.

Accordingly, claims 1, 9, 10, 30 and 31 are believed to be allowable over the cited references for at least the reasons discussed above.

Reconsideration and withdrawal of the rejections of claims 1, 9, 10, 30 and 31 under 35 U.S.C. §102(e) is respectfully requested.

Applicant has not individually addressed the rejections of the dependent claims because Applicant submits that the independent claims from which they respectively depend are in condition for allowance as set forth above. Applicant however reserves the right to address such rejections of the dependent claims should such be necessary.

Applicant believe that the application is in condition for allowance and such action is respectfully requested.

PATENT

Application Serial No. 09/069,419  
Amendment dated March 2, 2004  
Reply to Office Action of December 2, 2003  
Docket No. 1232-4440

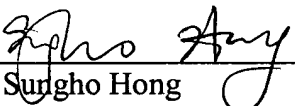
**AUTHORIZATION**

No petitions or additional fees are believed due for this amendment and/or any accompanying submissions. However, to the extent that any additional fees and/or petition is required, including a petition for extension of time, Applicant hereby petitions the Commissioner to grant such petition, and hereby authorizes the Commissioner to charge any additional fees, including any fees which may be required for such petition, or credit any overpayment to Deposit Account No. 13-4500 (Order No. 1232-4440). **A DUPLICATE COPY OF THIS SHEET IS ENCLOSED.**

An early and favorable examination on the merits is respectfully requested.

Respectfully submitted,  
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